

REMARKS/ARGUMENTS

Claims 1-3, 6, 7, 10-16, 18, 19, 21, 22, and 24-28 are pending. Claims 1-3, 6, 7, 10-16, 18, 19, 21, 22, and 24-28 have been rejected.

Interview Summary

Applicants respectfully thank the Examiner and her Supervisor for granting the telephonic interview that was conducted on August 19, 2008, and their courtesy during the same. During the interview, a proposed amendment to place the word "first" before every recitation of the phrase "tibial base plate" or "base plate" was suggested in order to clarify that Applicants' claim calls for a single tibial base plate meeting each and every limitation recited in the claims. In view of this proposed amendment, the Examiner and the Examiner's Supervisor both indicated that this amendment would render the Examiner's rejections moot. Thus, in order to expedite prosecution, Applicants have amended the claims as indicated in the Listing of Claims. Thus, for at least the reasons set forth below, Applicants respectfully submit that the application is now in condition for allowance.

Claim Rejections - 35 U.S.C. §103(a)

Claims 1-3, 6, 7, 10-13, 15, 16, 18, 19, 21, 22, and 24-27 are rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 6,306,172 to O'Neil et al (hereinafter "O'Neil '172") in view of U.S. Patent Application Publication No. 2004/0186584 to Keller (hereinafter "Keller '584").

Applicants respectfully submit that independent Claim 1, as well as Claims 2, 3, 6, 7, and 10-13, which depend therefrom, are not obvious over O'Neil '172 in view of Keller '584. Specifically, independent Claim 1 calls for, *inter alia*, a device including a first tibial base plate, an insert adapted to be positioned above *the* first base plate, *the* insert and *the* first base plate having a first configuration, wherein *the* insert is translationally fixed to *the* first base plate and rotatable relative to *the* first base plate, and at least one removable pin having a first portion and a second portion, the first portion of the pin configured to engage an opening formed in the outer perimeter side surface of *the* first base plate and the second portion of the pin configured to engage an opening formed in an outer perimeter side surface of *the* insert to thereby prevent relative motion between *the* insert and *the* first base plate.

O'Neil '172 discloses, in one embodiment, tibial component 10, shown in Fig. 1, including tibial plateau 12 and bearing insert 20, mounted on top surface 14 of tibial plateau 12. Referring to Figs. 1A-2A, tibial bearing insert 20 is formed from tibial bearing body 28 and spacer plug 32. Spacer plug 32 is received within cavity 34 formed in bottom surface 26 of tibial bearing body 28. Once assembled, tibial bearing insert 20 can be installed upon a tibial plateau, i.e., tibial plateau 12, in a known manner, e.g., by snap-fitting tibial bearing insert 20 upon the tibial plateau. Alternatively, referring to Figs. 3 and 3A, modular rotatable platform post 42 may be received within cavity 34 of tibial bearing body 28 instead of spacer plug 32 to form rotatable cruciate-retaining tibial bearing insert 44. Rotatable cruciate-retaining tibial bearing insert 44 may be mated with a suitable tibial plateau, such as tibial plateau 52, shown in Fig. 4, having formed therein cavity 60, which is configured for receipt of post 42. By utilizing tibial bearing insert 44 in conjunction with a corresponding tibial plateau, such as tibial plateau 52, tibial bearing insert 44 is allowed to rotate with respect to the tibial plateau.

In forming the rejection, the Examiner relies on O'Neil '172 as disclosing a first tibial base plate, an insert, and at least one removable pin as called for in independent Claim 1. However, O'Neil '172 fails to disclose *a* first tibial base plate, and *an* insert, *the* insert and *the* first base plate having a first configuration, wherein *the* insert is translationally fixed to *the* first base plate and rotatable relative to *the* first base plate, and at least one removable pin having a first portion and a second portion, the first portion of the pin configured to engage an opening formed in the outer perimeter sidewall of *the* first base plate and the second portion of the pin configured to engage an opening formed in an outer perimeter side surface of *the* insert to thereby prevent relative rotation between *the* insert and *the* first base plate. In stark contrast to amended independent Claim 1, O'Neil '172 discloses tibial bearing inserts that may be utilized with either a spacer plug or a rotatable platform post that mate with *different* tibial plateaus. Nowhere does O'Neil '172 disclose *a* first tibial base plate and *an* insert meeting the limitations of amended independent Claim 1.

In contrast to the device of O'Neil '172, the present invention allows for a *single* tibial base plate to be utilized with a *single* insert in two configurations: a first configuration in which the insert is translationally fixed to the base plate and rotatable relative to the base plate and a

second configuration in which relative rotation between the insert and the base plate is prevented. Advantageously, the design of the present invention allows for the manufacture of substantially fewer tibial base plates while providing substantially similar benefits. Thus, the overall costs of manufacturing and inventorying the components of the present invention are substantially reduced.

The Examiner's additional citation of Keller '584 fails to overcome this deficiency, as Keller '584, either alone or in combination with O'Neil '172, fails to disclose or suggest a device including a first tibial base plate, an insert, the insert and the first base plate having a first configuration, wherein the insert is translationally fixed to the first base plate and rotatable relative to the first base plate, and at least one removable pin having a first portion and a second portion, the first portion of the pin configured to engage an opening formed in an outer perimeter side surface of the first base plate and the second portion of the pin configured to engage an opening formed in an outer perimeter side surface of the insert to thereby prevent relative rotation between the insert and the first base plate.

For at least the foregoing reasons, Applicants respectfully submit that independent Claim 1, as well as Claims 2, 3, 6, 7, and 10-13, which depend therefrom, are not rendered obvious over O'Neil '172 in view of Keller '584.

Applicants respectfully submit that independent Claim 15 is not rendered obvious over O'Neil '172 in view of Keller '584. Specifically, independent Claim 15 calls for a device including, *inter alia*, a first tibial base plate, an insert, *the* insert and *the* first base plate having a first configuration, wherein *the* insert is translationally fixed to *the* first base plate and rotatable relative to *the* first base plate, and a removable means for preventing relative rotation between *the* insert and *the* first base plate, wherein, when installed, a first portion of the removable means is configured to engage an opening formed in the outer perimeter side surface of *the* first base plate and a second portion of the removable means is configured to engage an opening formed in an outer perimeter side surface of *the* insert to thereby prevent relative rotation between *the* insert and *the* first base plate.

In forming the rejection, the Examiner relies on O'Neil '172 as disclosing a first tibial base plate, an insert, and a removable means for preventing relative rotation between the insert

and the first base plate as called for in independent Claim 15. However, O'Neil '172 fails to disclose *a* first tibial base plate, and *an* insert, *the* insert and *the* first base plate having a first configuration, wherein *the* insert is translationally fixed to *the* first base plate and rotatable relative to *the* first base plate, and a removable means for preventing relative rotation between *the* insert and *the* first base plate, wherein, when installed, a first portion of the removable means is configured to engage an opening formed in the outer perimeter side surface of *the* first base plate and a second portion of the removable means is configured to engage an opening formed in an outer perimeter side surface of *the* insert to thereby prevent relative rotation between *the* insert and *the* first base plate. In stark contrast to amended independent Claim 15, O'Neil '172 discloses tibial bearing inserts that may be utilized with either a spacer plug or a rotatable platform post that mate with *different* tibial plateaus. Nowhere does O'Neil '172 disclose *a* first tibial base plate and *an* insert meeting the limitations of amended independent Claim 15.

In contrast to the device of O'Neil '172, the present invention allows for a *single* tibial base plate to be utilized with a *single* insert in two configurations: a first configuration in which the insert is translationally fixed to the base plate and rotatable relative to the base plate and a second configuration in which relative rotation between the insert and the base plate is prevented. Advantageously, the design of the present invention allows for the manufacture of substantially fewer tibial base plates while providing substantially similar benefits. Thus, the overall costs of manufacturing and inventorying the components of the present invention are substantially reduced.

The Examiner's additional citation of Keller '584 fails to overcome this deficiency, as Keller '584, either alone or in combination with O'Neil '172, fails to disclose or suggest a device including a first tibial base plate, an insert, the insert and the first base plate having a first configuration, wherein the insert is translationally fixed to the first base plate and rotatable relative to the first base plate, and a removable means for preventing relative rotation between the insert and the first base plate, wherein, when installed, a first portion of the removable means is configured to engage an opening formed in the outer perimeter side surface of the first base plate and a second portion of the removable means is configured to engage an opening formed in

an outer perimeter side surface of the insert to thereby prevent relative rotation between the insert and the first base plate.

For at least the foregoing reasons, Applicants respectfully submit that independent Claim 15, as well as Claims 16, 18, 19, 21, 22, and 24-27, which depend therefrom, are not rendered obvious over O'Neil '172 in view of Keller '584.

Claims 14 and 28 are rejected under 35 U.S.C. § 103(a) as being obvious over O'Neil '172 in view of Keller '584 in further view of U.S. Patent No. 5,658,344 to Hurlburt (hereinafter "Hurlburt '344").

In forming the rejection, the Examiner relies on O'Neil '172 and Keller '584 for disclosing or suggesting each and every limitation of independent Claims 1 and 15, from which Claims 14 and 28 depend. For at least the reasons set forth above, Applicants respectfully submit that O'Neil '172 and Keller '584, either alone or in combination, fail to disclose or suggest each and every limitation of independent Claims 1 and 15.

The Examiner's further citation of Hulbert '344 fails to overcome this deficiency as Hulbert '344 fails to disclose or suggest a device including a first tibial first base plate, an insert adapted to be positioned above *the* first base plate, *the* insert and *the* first base plate having a first configuration, wherein *the* insert is translationally fixed to *the* first base plate and rotatable relative to *the* first base plate, and at least one removable pin having a first portion and a second portion, the first portion of the pin configured to engage an opening formed in the outer perimeter side surface of *the* first base plate and the second portion of the pin configured to engage an opening formed in an outer perimeter side surface of *the* insert to thereby prevent relative motion between *the* insert and *the* first base plate, as called for in independent Claim 1, or a first tibial base plate, an insert, *the* insert and *the* first base plate having a first configuration, wherein *the* insert is translationally fixed to *the* first base plate and rotatable relative to *the* first base plate, and a removable means for preventing relative rotation between *the* insert and *the* first base plate, wherein, when installed, a first portion of the removable means is configured to engage an opening formed in the outer perimeter side surface of *the* first base plate and a second portion of the removable means is configured to engage an opening formed in an outer perimeter

Application Serial No. 10/771,887
Amendment After Final dated August 22, 2008
Reply to Final Office Action dated March 18, 2008

side surface of *the* insert to thereby prevent relative rotation between *the* insert and *the* first base plate, as called for in independent Claim 15.

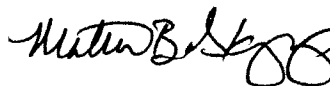
Therefore, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of Claims 14 and 28.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested. Specifically, Applicants respectfully submit that the application is in condition for allowance and respectfully requests allowance thereof.

In the event Applicants have overlooked the need for an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, Baker & Daniels.

Should the Examiner have any further questions regarding any of the foregoing, she is respectfully invited to telephone the undersigned at 260-424-8000.

Respectfully submitted,



Matthew B. Skaggs
Registration No. 55,814

Attorney for Applicants

MBS

BAKER & DANIELS LLP
111 East Wayne Street, Suite 800
Fort Wayne, IN 46802
Telephone: 260-424-8000
Facsimile: 260-460-1700

CERTIFICATION OF ELECTRONIC FILING

I hereby certify that this correspondence is being electronically filed with the United States Patent and Trademark Office on the date indicated below:

MATTHEW B. SKAGGS, REG. NO. 55,814

Name of Registered Representative


Signature

August 22, 2008

Date